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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,400	11/06/2001	Roger Pellenc	1811-2	4957

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EXAMINER

TORRES, ALICIA M

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 07/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/993,400

Applicant(s)

PELLENC ET AL.

Examiner

Alicia M Torres

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 11 and 17-19 is/are rejected.
- 7) ☒ Claim(s) 12-16 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Couser in view of Stikeleather.

Couser discloses a removable universal tool holder for mounting on a straddling vineyard tractor for agricultural work in tree or shrub plantations, the tool holder comprising:

A primary chassis (12) having means thereon for removable mounting to the tractor;

A first secondary chassis (16) having a universal three-point hitch mechanism connected thereto;

A second secondary chassis (20) having a universal three-point hitch mechanism connected thereto;

A first arm (14) directly connected to and extending between the primary chassis (12) and the first secondary chassis (16);

A second arm (18) directly connected to and extending between the primary chassis (12) and the secondary chassis (23), each of the first and second arms being coupled to the primary chassis (12) by a joint means (38);

A first pivoting means (45) cooperative with the primary chassis (12) and with the first arm (14), for pivoting the first arm in the approximately horizontal plane, as per claim 11; and

A stand mounting means (see figure 2, unnumbered) interconnected to the primary chassis, the stand mounting means for removably receiving a stand therein, as per claim 19.

However, Couser fails to disclose wherein the joint means allows for pivoting the respective arm in an approximately horizontal plane; and

A second pivoting means cooperative with the primary chassis and with the second arm for pivoting the second arm in the approximately vertical plane and in the approximately horizontal plane.

Stikeleather discloses a tractor hitch with a joint means (see column 5, lines 13-15) for pivoting the arm in an approximately horizontal plane; and

A second pivoting means (see column 5, lines 13-15) cooperative with the primary chassis (3) and with the second arm (10) for pivoting the second arm (10) in the approximately vertical plane and in the approximately horizontal plane.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the vertical and horizontal movement of Stikeleather on the apparatus of Couser in order to provide improved implement control.

3. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Couser and Stikeleather as applied to claim 11 above, and further in view of Ellinger.

The device is disclosed as applied to claim 11 above. However, Couser and Stikeleather fail to disclose a detecting means connected to and oriented downwardly from respectively the first and second chassis, the detecting means for monitoring a height of the tool holder.

Ellinger discloses a coupling chassis (12) comprised of a detector (42) oriented downwardly from respectively the first and second chassis, the detecting means (42) for monitoring the height of the tool holder (46).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the sensor of Ellinger on the device of Couser and Stikeleather in order to automatically maintain the height of the implement relative to the ground.

4. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Couser and Stikeleather as applied to claim 11 above, and further in view of Bobard.

Couser and Bobard disclose the device as seen above. However, the combination fails to disclose a hydraulic motor connected to each of the first and second secondary chassis, the hydraulic motor having an output shaft with a coupling at an end thereof.

Bobard discloses wherein the secondary coupling chassis (12) is comprised of accommodations for a hydraulic motor having an output shaft that is comprised of a coupling instrument similar to the power take-off shaft of a farm tractor (see column 3, lines 3-7).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the accommodations for a hydraulic motor as taught by Bobard on the device of Couser and Stikeleather in order to allow for various types of tool-driving means.

Response to Arguments

5. The addition of the Stikeleather patent has provided the joint means allowing the pivoting of the arm in an approximate vertical plane or in an approximately horizontal plane.

Allowable Subject Matter

6. Claims 12-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

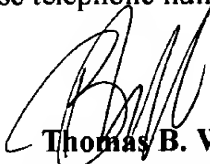
Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wheeler, Fujimoto et al, and Van Wyck have been cited as of interest.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 703-305-6953. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-305-3597.


Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671